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C O N F I D E N T I A L SECTION 01 OF 03 LUSAKA 000909

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SUBJECT: MWANAWASA SUSPENDS DRUG ENFORCEMENT COMMISSIONER

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Classified By: Ambassador Carmen Martinez for Reasons 1.4 (b) and (d)

¶1. (C) Summary. On August 8, President Mwanawasa suspended Ryan Chitoba, the head of Zambia's Drug Enforcement Commission, after receiving compelling evidence from Zambia's Anti-Corruption Commission (ACC). Chitoba's deputy, Jacob Koyi, who may also be implicated in the abuse of authority and public theft charges, has not been suspended. According to several sources, the investigations involve the misappropriation of over one billion Kwachas (USD 260,000). These developments follow public calls for action from Transparency International Zambia (TIIZ) and the independent media. A change in leadership at the DEC may provide the Embassy with an opportunity to move forward on its anti-money laundering agenda. End Summary.

If Speaking is Silver...

¶2. (SBU) After some prompting and media pressure, in late July the ACC launched an investigation into allegations of abuse of authority and public theft by DEC Commissioner Ryan Chitoba and his deputy, Jacob Koyi. The investigations involve the misappropriation of GRZ funds, particularly assets that the DEC had detained from suspected money launderers. According to some estimates, Chitoba allegedly stole between one to four billion Zambian Kwachas (USD 250,000 to 1 million), since he took office in 2005.

¶3. (C) Emboff received from TIIZ (Protect) a copy of a bank statement, which details financial transactions at DEC's "Instant Savings Account" at Barclays Bank. The statement shows deposits of K 190 million (USD 47,500) and debits of K 132 million (USD 33,000) within a six month period. The debits were all cash withdrawals, in quantities ranging from K 10 - 27 million (USD 2,500 to 6,500). A TIIZ official explained to Emboff that the deposits reflect assets that the DEC had seized from suspected criminals, which were to remain frozen in this account until the conclusion of the investigation and/or trial, after which the funds were to be transferred to an account (called "Control 91") at the Bank of Zambia. The TIIZ rep noted that these cases had not been concluded and that Chitoba, his spouse, and Koyi were using the account as a personal checking account. It is unclear whether the DEC, after initiating a seizure of illicit proceeds, obtained court orders seeking forfeiture, as required by law.

...Silence is Gold

14. (C) The TIZ official relayed privately to Emboffs that two months earlier, in mid-May, 15 DEC employees had collected a profusion of evidence of Chitoba's and Koyi's illegal activities. The DEC informants did not report it to the ACC's Director General, Nixon Banda, fearing he would not act. In order to preserve their anonymity, the DEC officers presented the evidence to TIZ, which subsequently presented it to the ACC.

15. (C) Despite the evidence, Banda refused to launch an investigation. Instead, he deflected the case to the Ministry of Home Affairs on the unintelligible reasoning that it was a case of nepotism because several DEC employees are related to Chitoba. Although several DEC employees may be related to the DEC Commissioner, these were not among the DEC informants, according to the TIZ representative. When TIZ determined that neither the ACC nor the Ministry of Home Affairs intended to investigate the matter further, TIZ gave the story to the independent daily newspaper The Post. On July 26, The Post reported the story and called upon President Mwanawasa to suspend Chitoba and Koyi.

A Man Who Desires Revenge...

16. (C) The Post reported on July 27 that Chitoba had taken action against ten DEC officers who were the suspected whistleblowers. Chitoba ordered that the officers and their families be transferred, some to different provinces. Chitoba also demoted at least one of the officers: one woman was demoted seven ranks, from a senior human resource position to a clerk. It is not known whether any or all of the ten affected officers were among those who presented the evidence to TIZ.

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17. (U) On August 7, The Post reported that the DEC used four armed military officers to forcefully transfer several of the suspected whistleblowers. The Zambian Army officers entered one DEC officer's home at 3:00 a.m. and another at approximately 4:00 a.m. The Post reports that the Army officers gave them no prior notice. DEC representatives would not respond to inquiries by The Post about the incident.

...Should Dig Two Graves

18. (C) The TIZ rep noted to Emboffs that the ACC has now--subsequent to the media pressure--launched an investigation. He expressed confidence in the investigators and predicted that the case would be taken to court by the end of September. U.S. Department of Treasury Office of Technical Assistance (OTA) Resident Advisor's contacts report, however, that Chitoba has "the dirt" on a wide range of GRZ officials, and therefore any effort to prosecute Chitoba could be a liability to the GRZ.

19. (U) Michael Sata, head of the leading opposition political party, the Patriotic Front, criticized Mwanawasa on August 1, for not taking action against Chitoba. He attributed the President's inaction to the two belonging to the same "family tree." Sata also chided the President for appointing other family members to important positions in government, the political party, and diplomatic ranks. When asked how Chitoba and Mwanawasa are related, Sata could not specify. Instead he called on State House to refute him. (Note: Others have also made the same argument to Emboffs, although no one has been able to offer an adequate explanation as to how the two are related. End Note.)

110. (C) On August 7, representatives from the Attorney General's Office confided to OTA Resident Advisor that

Mwanawasa was considering dismissing Chitoba. Later that same day, the President announced Chitoba's suspension, in order to expedite the ACC's investigation. Koyi, however, was not suspended. The Special Assistant to the President for Press and Public Relations, John Musukuma, noted that State House "had not been furnished with details of allegations against (Koyi) by the ACC."

DEC Background

¶11. (SBU) The Prohibition and Prevention of Money-Laundering Act of 2001 gives the DEC sole investigative authority for issues pertaining to money laundering. In November 2003, the DEC established a Financial Investigations Unit, which immediately began conducting investigations. In December 2006, Chitoba told Emboff that, since its inception, the DEC's Financial Investigations Unit had investigated over 750 cases of money laundering, resulting in 289 arrests and 18 convictions. (Note: Chitoba did not report on the gross illicit proceeds that the DEC had seized or forfeited, in association with the 289 arrests. End Note.)

¶12. (C) These numbers are slightly misleading, however. The Financial Investigations Unit does not have the capacity to perform forensic investigations of complex financial crime and in fact, most DEC money laundering arrests in actuality have been simple cases of fraud, theft, or other illegal activities. Chitoba's apparently liberal interpretation of "money laundering," to mean virtually any crime involving financial proceeds, does not meet international standards. OTA Resident Advisor's contacts suggest that this practice results in the under-reporting of Suspicious Activities by financial institutions because of the DEC's propensity to make arrests based solely on mere suspicion.

¶13. (C) OTA Resident Advisor's contacts also noted that DEC arrests deny other GRZ agencies of jurisdiction the opportunity to conduct appropriate investigation of the predicate offenses. Consequently, Chitoba has created a separate and remarkably independent law enforcement agency that operates in lieu of--rather than alongside--other law enforcement bodies. Embassy sources note that Chitoba and the DEC are known for their "lack of cooperation" with other GRZ law enforcement agencies.

Set a Thief to Catch a Thief

¶14. (C) Comment. Chitoba's suspension may provide an opportunity to push forward on Embassy anti-money laundering (AML) priorities. Over the past year we have urged the GRZ

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to establish an internationally recognized Financial Intelligence Unit, raising the issue with the Attorney General, the Governor of the Bank of Zambia, and President Mwanawasa. These developments point to the importance of establishing an administrative unit outside of any law enforcement agency, perhaps within the Bank of Zambia, pursuant to some long-standing GRZ internal recommendations. The Attorney General, as the Chair of Zambia's AML Authority, has expressed his interest in pursuing this. Chitoba, however, did not want to relinquish the DEC's AML oversight authority, and opposed the Attorney General's efforts. Most recently, various GRZ officials and Embassy sources reported that Chitoba caused the withdrawal of the section proposing the establishment of a separate Financial Intelligence Unit contained in the National AML Strategy submitted to Cabinet for approval in February, 2007.

¶15. (C) Per reftel, an outside consultant who recently reviewed the GRZ's anti-corruption campaign, described the DEC to Emboff as "secretive and non-cooperative with other

GRZ agencies." These new allegations lend some credibility to rumors that the DEC is mired in corruption. Although the DEC has been remarkably active, and arguably (statistically) more successful than the ACC, it seems that Chitoba had plenty of financial motivation, given that the liquidated assets appear to have been at his and Koyi's personal disposal. It is--unfortunately--ironic that it took a thief (Chitoba) to catch a thief in the 289 arrests and 18 convictions that the DEC achieved. It now remains to be seen whether Mwanawasa and the ACC will fulfill their official responsibilities and support a legitimate investigation. If nothing else, this case points to the necessity of whistleblower protection and asset forfeiture laws in Zambia, legislation that the Embassy continues to recommend to the GRZ.

MARTINEZ